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**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Porterhouse Cleaning and Maintenance Service  
Company, Inc.  
**File:** B-225725  
**Date:** May 18, 1987

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### DIGEST

1. Where solicitation permits bids for custodial services on both a nighttime and daytime basis, a bid for daytime services that complies with all the terms and conditions of the solicitation is responsive, and the fact that the same bidder's bid for nighttime services is nonresponsive does not affect the responsiveness of the daytime bid.
2. Where it is not clear whether a mistake in bid is in a unit price or an extended price, so that the intended bid cannot be determined, it is generally improper to treat the mistake as an apparent clerical error.
3. Where it is clear that an allegedly mistaken bid would be low with or without correction, a bidder may waive its mistake claim or correct its bid, even when the intended bid cannot be determined exactly. When the error amounts to \$108.02 on a total price of more than \$2 million, the effect is de minimus, and higher-priced bidders are not prejudiced.

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### DECISION

Porterhouse Cleaning and Maintenance Service Company, Inc. protests the award of a contract to Curl's Building Maintenance Inc. under invitation for bids (IFB) No. F11623-87-B-0006 for custodial services at Scott Air Force Base, Illinois. The protester contends that all bids lower than its own were nonresponsive and argues that the proposed awardee should not have been permitted to correct a mistake in bid.

We deny the protest.

The IFB, issued November 12, 1986, requested prices for a 9-month period, January through September 1987, and two 1-year option periods. Bids were requested for performance during the day and alternatively, at night. Amendment 1,

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issued December 5, among other things added line items for snow removal to the nighttime bid schedule; this service already was included on the daytime bid schedule. The amendment also stated that the government would award a single contract for either daytime or nighttime services, whichever cost less.

At bid opening on December 29, the Air Force received 15 bids. The apparent low bidder was J&J Maid Services for daytime services; this firm was also the second-low bidder, based upon its price for nighttime services. However, when the firm failed to verify its prices, the Air Force rejected its daytime bid as unreasonably low and its nighttime bid because the firm had failed to acknowledge an amendment.

Curl's bid for nighttime services was third-low, and its daytime bid was fourth-low. Porterhouse followed, offering the same price for services either during the day or at night.

The Air Force rejected Curl's bid for nighttime services as nonresponsive because of the firm's failure to provide prices for snow removal for the base and first option period. Although the firm had acknowledged amendment 1, Curl explained that it had been advised of the contents of the amendment by telephone, but had not actually received it. Therefore, according to Curl, it was not aware of the need to add line items and separately price these services (the record does not indicate why Curl did provide prices for nighttime snow removal for the second option period). After bid opening, Curl offered to provide up to the annual estimated quantity of nighttime snow removal, 975 hours, at no charge. By this time, however, the Air Force had decided that it actually required daytime services, so that in any event it apparently would have rejected Curl's bid for nighttime services.

As for Curl's daytime bid, the agency found it responsive and agreed to waive price extension errors totaling \$108.02 as a minor informality. Curl's corrected bid with options, amounts to \$2,067,159.18. Porterhouse's bid was \$2,278,617.

The protester first argues that because Curl's bid for nighttime services was nonresponsive, its daytime bid should also have been rejected as nonresponsive.

A bid is responsive if, upon award, the bidder would be obligated to perform in exact conformance with all material solicitation provisions. See Power Test, Inc., B-218123, Apr. 29, 1985, 85-1 CPD ¶ 484. Here, the invitation provided for two separate offers, and Curl's offer for

daytime services fully complied with the terms and conditions of the IFB. As noted above, Curl acknowledged amendment 1 (as well as two subsequent amendments), and priced every line item, including snow removal, for all periods of performance. The fact that the bid for nighttime services was nonresponsive does not affect the responsiveness of Curl's bid for daytime services.

The protester also argues that Curl should not have been permitted to correct a mistake in its bid for daytime services. The agency responds that in reviewing the bid, the contracting officer discovered several mathematical errors in extensions of the firm's unit prices. The record indicates that Curl made three errors in extending its unit prices which, as corrected, added \$108.02 to its total price, including options. These errors involved the following line items:

Item	Estimate	Unit Price	Extended Price	Corrected Price
18AA	9 mos.	\$872.56	\$7,853.00	\$7,853.04
52AA	9 mos.	36.94	332.48	332.46
61CA	12 mos.	765.31	9,075.72	9,183.72

The agency assumed in each case that the unit price was correct. Curl's total bid therefore was increased from \$2,067,151.16 to, as noted above, \$2,067,159.18. The corrected bid was still significantly less than the protester's bid for daytime performance of the same services:

Porterhouse	\$2,278,617.00
Curl	-2,067,159.18
	<u>\$ 211,457.82</u>

Under the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.406-2 (1986), a contracting officer is authorized to correct a clerical mistake in a bid without further agency approval after the bidder verifies the intended bid. Tetronix, Inc., B-219981, Nov. 27, 1985, 85-2 CPD ¶ 611. In such a case, to be corrected as a clerical error, both the mistake and the intended bid must be apparent from the face of the bid. Id.

Here, the contracting officer assumed that the errors were in the extended prices, rather than in the unit prices. While this assumption provides one explanation for the errors, it is also possible that the mistake was in the unit price. Since the intended bid cannot be determined, it was improper to treat the mistake as an apparent clerical error. See Broken Lance Enterprises, Inc., 57 Comp. Gen. 410 (1978), 78-1 CPD ¶ 279.

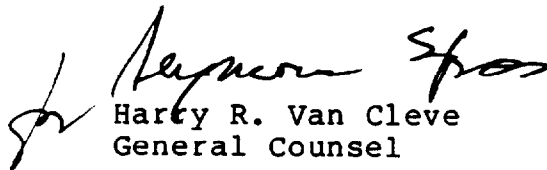
Where it is clear, however, that the bid would be low with or without correction, a bidder may be permitted to waive its mistake claim, see National Heat and Power Corp., B-212923, Jan. 27, 1984, 84-1 CPD ¶ 125, or to correct its bid, see R & R Contracting Inc., B-217412, Mar. 1, 1985, 85-1 CPD ¶ 260, even where the intended bid cannot be determined exactly. See, for example, Dadson Corp., B-210413, June 7, 1983, 83-1 CPD ¶ 618; Western States Constr. Co., Inc., B-191209, Aug. 29, 1978, 78-2 CPD ¶ 149.

While the record here does not show whether Curl made a mistake in its unit or extended price, it is clear that the bid remains low with or without the \$108.02 correction being permitted. Therefore, we find that the contracting officer properly waived the mistakes as a minor informality in accord with the FAR, 48 C.F.R. § 14.405. Their effect is de minimus, and waiving them will not prejudice or displace other, higher-priced bidders.

Porterhouse also appears to be arguing that it should have received the award because an agency representative at one point advised the firm that it was the apparent low bidder and requested that Porterhouse submit additional information as to its responsibility. Oral advice or a request for information of this type is not sufficient to give rise to a binding contract, since the government's acceptance of an offer must be clear and unconditional. See Mil-Base Indus., B-218015, Apr. 12, 1985, 85-1 CPD ¶ 421.

Finally, we need not reach the question of the propriety of the Air Force's having determined, after bid opening, that it would only consider bids for daytime services, since the lowest responsive bid was for such services, and all lower bids--for nighttime services--were nonresponsive.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel